

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 PAUL C. AMENT  
Supervising Deputy Attorney General  
3 E. A. JONES III, State Bar No. 71375  
Deputy Attorney General  
4 ELAINE GYURKO  
Senior Legal Analyst  
5 California Department of Justice  
300 So. Spring Street, Suite 1702  
6 Los Angeles, California 90013  
Telephone: (213) 897-4944  
7 Facsimile: (213) 897-9395

8 Attorneys for Complainant

9 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. R-2110

13 CLARA M. LOCKETT  
4508 Atlantic Avenue #258  
14 Long Beach, California 90807

**A C C U S A T I O N**

15 Respiratory Care Practitioner License No. 12633

16 Respondent.

17  
18 Complainant alleges:

19 PARTIES

20 1. Stephanie Nunez (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Respiratory Care Board of California (Board),  
22 Department of Consumer Affairs.

23 2. On or about May 2, 1989, the Board issued Respiratory Care Practitioner  
24 License Number 12633 to Clara M. Lockett (Respondent). This license was in full force and  
25 effect at all times relevant to the charges brought herein and will expire on April 30, 2009, unless  
26 renewed.

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8

3. This Accusation is brought before the Board under the authority of the

4. Section 3710 of the Code states: “The Respiratory Care Board of

5. Section 3718 of the Code states: “The board shall issue, deny, suspend,

6. Section 3750 of the Code states:

“ . . .

“(d) Conviction of a crime that substantially relates to the qualifications,

“ . . .

“(j) The commission of any fraudulent, dishonest, or corrupt act which is

“ ”  
• • •

7. Section 3752 of the Code states:

“A plea or verdict of guilty or a conviction following a plea of nolo contendere

1 conviction has been affirmed on appeal or when an order granting probation is made  
2 suspending the imposition of sentence, irrespective of a subsequent order under Section  
3 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to  
4 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
5 accusation, information, or indictment.”

6 8. California Code of Regulations, Title 16, section 1399.370, states:

7 “For the purposes of denial, suspension, or revocation of a license, a crime or act  
8 shall be considered to be substantially related to the qualifications, functions or duties of  
9 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to  
10 perform the functions authorized by his or her license or in a manner inconsistent with the  
11 public health, safety, or welfare. Such crimes or acts shall include but not be limited to  
12 those involving the following:

13 “ . . .

14 “(b) Conviction of a crime involving fiscal dishonesty theft, or larceny.

15 “ . . . ”

#### 16 COST RECOVERY

17 9. Section 3753.5, subdivision (a) of the Code states:

18 "In any order issued in resolution of a disciplinary proceeding before the board,  
19 the board or the administrative law judge may direct any practitioner or applicant found to  
20 have committed a violation or violations of law to pay to the board a sum not to exceed  
21 the costs of the investigation and prosecution of the case."

22 10. Section 3753.7 of the Code states:

23 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall  
24 include attorney general or other prosecuting attorney fees, expert witness fees, and other  
25 administrative, filing, and service fees."

26 11. Section 3753.1, subdivision (a) of the Code states:

27 "An administrative disciplinary decision imposing terms of probation may  
28 include, among other things, a requirement that the licensee-probationer pay the monetary

costs associated with monitoring the probation."

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

12. Respondent is subject to disciplinary action under sections 3750, subdivision (d), and 3752 of the Code, and California Code of Regulations, Title 16, section 1399.370, subdivision (b), in that she was convicted of a crime substantially related to the qualifications, functions or duties of a respiratory care practitioner. The circumstances are as follows:

A. Between on or about April 2003 and January 2004, Respondent unlawfully obtained aid for herself and her child in an amount exceeding \$400.00. She falsely reported on her monthly eligibility report that she received no income from Los Angeles in-home support services. She then certified the report under penalty of perjury. Respondent was arrested on April 1, 2003.

B. On or about June 9, 2006, in Riverside County Superior Court Complaint No. RIF130694, Respondent was charged with fraudulently obtaining aid for herself and her child, in violation of Welfare and Institutions Code section 10980, subdivision (c), subsection (2), a felony (Count 1) and perjury, in violation of Penal Code section 118, a felony (Count 2).

C. On or about January 10, 2007, the Court deemed Count 1 to be a misdemeanor violation of Welfare and Institutions Code section 10980, subdivision (c), subsection (2). Respondent was convicted upon her plea of guilty to fraudulently obtaining aid (Count 1). Respondent was placed on probation for three years on a number of terms and conditions, among others: serve 1 day in county jail (with credit for 1 day), and pay fees and fines of \$230.00. The Court noted that restitution to the Department of Social Services was already paid in full. Count 2 of the complaint was dismissed.

///

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

(Commission of a Fraudulent, Dishonest or Corrupt Act)

13. Respondent is subject to disciplinary action under section 3750, subdivision (j), of the Code, in that she committed a fraudulent, dishonest or corrupt act substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

A. The facts and circumstances set forth in above Paragraph 12 of this Accusation are incorporated herein by reference.

B. On or about April 30, 2007, the Board received Respondent's respirator care practitioner license renewal application. Respondent answered "No" to the question regarding whether since she last renewed her license, she had been convicted of, diverted for, or pled guilty or nolo contendere/no contest to any violation of any law. On or about April 27, 2007, Respondent signed the license renewal application declaring under penalty of perjury that the information on the application was true and correct. She thereafter submitted the license renewal application to the Board. As Respondent was well aware at the time she signed this license renewal application, her answer was false by virtue of her conviction of fraudulently obtaining aid as set forth in Paragraph 12 above.

[illegible]

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
3 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

- 4 1. Revoking or suspending Respiratory Care Practitioner License Number  
5 12633 issued to Clara M. Lockett;
- 6 2. Ordering Clara M. Lockett to pay the Respiratory Care Board the costs of  
7 the investigation and enforcement of this case, and if placed on probation, the costs of probation  
8 monitoring; and
- 9 3. Taking such other and further action as deemed necessary and proper.

10  
11 DATED: October 26, 2007  
12

13 Original signed by Liane Zimmerman for:  
14 STEPHANIE NUNEZ  
15 Executive Officer  
16 Respiratory Care Board of California  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant  
20  
21  
22  
23  
24  
25  
26  
27  
28